



DEPARTMENT OF THE ARMY
SAVANNAH DISTRICT, CORPS OF ENGINEERS
REGULATORY BRANCH, NORTHERN SECTION
1590 ADAMSON PARKWAY, SUITE 200
MORROW, GEORGIA 30260-1777

REPLY TO
ATTENTION OF:

OCT 19 2005

Regulatory Branch
200501796

JOINT PUBLIC NOTICE
Savannah District/State of Georgia

The Savannah District has received an application for a Department of the Army Permit, pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344), as follows:

Application Number: 200501796

Applicant: Clayton Land, LLC
Attention: Mr. Rick Klewein
5845 Jacoranda Drive
Mableton, Georgia 30126

Agent: Wetland & Ecological Consultants, LLC
Attention: Mr. Neil Blackman
3225 South Cherokee Lane, Bldg. 800
Woodstock, Georgia 30188

Location of Proposed Work: Located within the Etowah Watershed, at the southwest quadrant of the Land Road and Lower Burris Road intersection, Latitude 34° 19' 45" North, Longitude 84° 29' 22" West, near Waleska, Cherokee County, Georgia.

Description of Work Subject to the Jurisdiction of the US Army Corps of Engineers: To construct a commercial/retail development, to serve the Clayton area of Cherokee County area.

The property is approximately 28.11 acres in size with approximately 782 linear-feet of jurisdictional intermittent streams.

This project will require impacts to 730 linear feet of intermittent stream.

If it is determined that issuance of a permit is appropriate and compensatory mitigation is required to offset the impacts of the proposed project, the applicant has proposed to purchase 3,102.5 stream credits from the Etowah River Mitigation Bank. Prior to the approval of the purchase of stream credits from a commercial mitigation bank as compensatory mitigation, an applicant must demonstrate through documentation to the US Army Corps of Engineers that the option of on-site and within basin mitigation has been thoroughly investigated, with no potential sites located. Details of the compensation plan including stream functional analysis and adequacy of the compensation have not been finalized.

BACKGROUND

This Joint Public Notice announces a request for authorizations from both the US Army Corps of Engineers and the State of Georgia. The applicant's proposed work may also require local governmental approval.

STATE OF GEORGIA

Water Quality Certification: The Georgia Department of Natural Resources, Environmental Protection Division, is responsible for certifying this project in accordance with the provisions of Section 401 of the Clean Water Act. Certification is required by an applicant for a Federal Permit to conduct an activity in, on, or adjacent to the waters of the State of Georgia. Copies of the application and supporting documents relative to a specific application will be available for review and copying at the office of the Georgia Department of Natural Resources, Environmental Protection Division, Water Protection Branch, 4220 International Parkway, Suite 101, Atlanta, Georgia 30354, during regular office hours. A copier machine is available for public use at a charge of 25 cents per page. Any person who desires to comment, object, or request a public hearing relative to State Water Quality Certification must do so within 30 days of the State's receipt of application in writing and state the reasons or basis of objections or request for a hearing. The application can also be seen in the US Army Corps of Engineers, Savannah District, Regulatory Branch, Northern Section, 1590 Adamson Parkway, Suite 200, Morrow, Georgia 30260.

State-owned Property and Resources: The applicant may also require assent from the State of Georgia that may be in the form of a license, easement, lease, permit, or other appropriate instrument.

US ARMY CORPS OF ENGINEERS

The Savannah District must consider the purpose and the impacts of the applicant's proposed work, prior to a decision on issuance of a Department of the Army Permit.

Cultural Resources Assessment: Pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended, we request the Georgia Historical Preservation Division (GHPD), or any other interested party, review the latest published version of the National Register of Historic Places (NRHP) to determine if the property has or has not any registered properties or properties listed as eligible for inclusion located at the site or in the area affected by the proposed work. Presently unknown archaeological, scientific, prehistorical, or historical data may be located at the site and could be affected by the proposed work.

R.S. Webb & Associates conducted a literature review of available databases, as well as an on-site Phase I cultural resource investigation. The literature review and field survey revealed no significant cultural resources on the project site.

Endangered Species: Pursuant to Section 7(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), we request from the US Department of the Interior, Fish and

Wildlife Service and the US Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, or any other interested party, information on whether any species listed or proposed for listing may be affected by this project.

WEC conducted a review of available literature and an on-site survey to determine the presence or absence of protected plant and animal species and their preferred habitats on the project site. No individual protected plant or animal species were observed during the survey effort.

Public Interest Review: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and in general, the needs and welfare of the people.

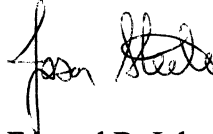
Consideration of Public Comments: The US Army Corps of Engineers is soliciting comments from the public; federal, state, and local agencies and officials; Native American Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the US Army Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Application of Section 404(b)(1) Guidelines: The proposed activity involves the discharge of dredged or fill material into the waters of the United States. The Savannah District's evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under the authority of Section 404(b) of the Clean Water Act.

Public Hearing: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application for a Department of the Army Permit. Requests for public hearings shall state, with particularity, the reasons for requesting a public hearing. The decision whether to hold a public hearing is at the discretion of the District Engineer, or his designated appointee, based on the need for additional substantial information necessary in evaluating the proposed project.

Comment Period: Anyone wishing to comment on this application for a Department of the Army Permit should submit comments in writing to the Commander, US Army Corps of Engineers, Northern Section, Attention: Mr. Jason Steele, 1590 Adamson Parkway, Suite 200, Morrow, Georgia 30260-1777, no later than 30 days from the date of this notice. Please refer to the applicant's name (Clayton Land, LLC) and the application number (200501796) in your comments.

If you have any further questions concerning this matter, please contact Mr. Jason Steele of the Regulatory staff at (678) 422-2730.

A handwritten signature in black ink, appearing to read "Ed Johnson, Jr.", with a stylized flourish at the end.

Edward B. Johnson, Jr.
Chief, Northern Section

Enclosures

1. Site Location Map
2. Topographic Map
3. Existing Conditions Map
4. Site Plan